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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,140	09/25/2003	Roger Graham Byford	VOCO / 07	7571
26875 7590 03/03/2008 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202				
EXAMINER				
CUMMING, WILLIAM D				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
03/03/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/671,140

**Applicant(s)**

BYFORD ET AL.

**Examiner**

WILLIAM D. CUMMING

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/21/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-27, 29-33, 35-57, 65 and 69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-27, 29-33, 35-57, 65 and 69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 12, 2007 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

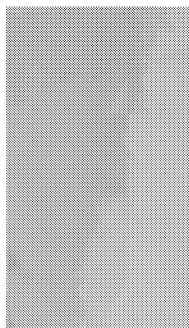
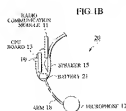
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 18-27, 29-33, 35-57, 65, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Matsuura, et al** in view of **Varma, et al**.

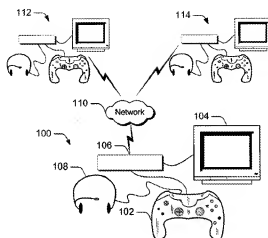
**Matsuura, et al** discloses a headset (figure 2 #10B) for communication with a device (#13). The headset configured for processing sampled representations of audio signals (#17, 36, 38) captured by the headset (#10B) and using speech detection circuitry (#36) to determine that the audio signals included user speech. The headset (#10B) transmits sampled representations of the captured audio signals (#11) to the device (#13) based on the determination that user speech is detected in the audio signals.



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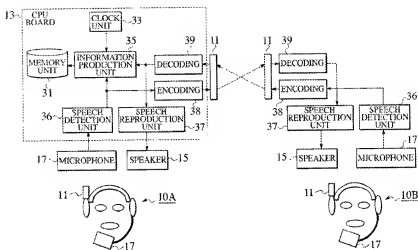
**Matsuura, et al** does not explicitly disclose, although inherent in **Matsuura, et al** since it would go against the principles and the advantages of the invention of **Matsuura, et al**, the sampled representation include user speech as opposed to extraneous noise. **Varuma, et al** teaches the use of sampled representation which includes user speech as opposed to extraneous noise (paragraphs 75, 76, 81, 82, abstract and summary of invention) in a device with a headset. For the purpose of reducing noise and isolating and capturing speech in a noisy environment.



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Therefore it would have been obvious for one ordinary skill in the art at the time the claimed invention was made to incorporate the use of use of sampled representation which includes user speech as opposed to extraneous noise as taught by **Varma, et al** in the headset of **Matsuura, et al** the purpose of reducing noise and isolating and capturing speech in an noisy environment in order to eliminate noise and to reduce distortion.

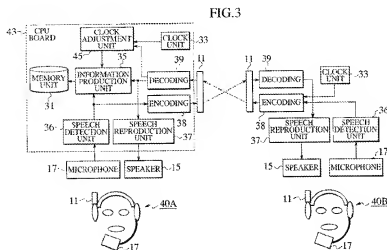
FIG. 2



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The invention would also be obvious for the following reasons:

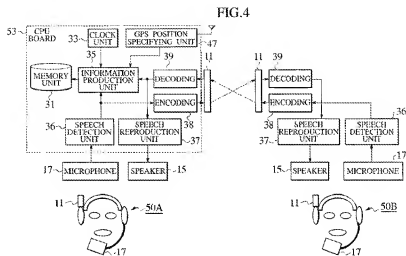
- i. The invention would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of one skilled in the art. *KSR INTERNATIONAL CO. v. TELEFLEX INC.* 82 USPQ2d 1385.



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- ii. The invention would have been obvious because the technique for improving a particular class of devices was part of the ordinary capabilities of a person of ordinary skill in the art, in view of the teaching of the technique for improving in other situations. KSR INTERNATIONAL CO. v. TELEFLEX INC. 82 USPQ2d 1385.





### Response to Arguments

6. Applicant's arguments with respect to the claims 18-27, 29-33, 35-57, 65, and 69 have been considered but are moot in view of the new ground(s) of rejection.

### Conclusion

7. If applicants wish to request for an interview, an "Applicant Initiated Interview Request" form (PTOL-413A) should be submitted to the examiner prior to the interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed "Applicant Initiated Interview Request" form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM D. CUMMING** whose telephone number is 571-272-7861. The examiner can normally be reached on Monday-Thursday, 11:00am-8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

1. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WILLIAM D CUMMING/  
Primary Examiner  
Art Unit 2617



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